

Notice of Allowability

Application No.

10/089,049

Examiner

J. Pasterczyk

Applicant(s)

ERNST ET AL.

Art Unit

1755

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment of 9/3/04, telephonic interview of 9/23/04.
2. ☒ The allowed claim(s) is/are 1-3,5-10 and 14-18.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 9/23/04
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Mark L. Bell
Supervisory Patent Examiner
Technology Center 1700

Art Unit: 1755

1. This Office action is in response to the amendment filed 9/3/04 and the telephonic interview of 9/23/04 and refers to the first Office action mailed 5/3/04.

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

In the claims: in claim 5, change "claim 4" to --claim 1--.

In claim 7, in the structure, change "B" to --R--; in the penultimate line remove the comma after "100 kg"; in the fifth line after the structure change "C₅" to --C₆--; in l. 4-5 from the end delete ", preferably a C₁-C₄-alkyl radical".

Add the following new claim: --Claim 18. The process of claim 7 wherein G is a C₁-C₄-alkyl radical.--

In the abstract: at the end of the current abstract add --The polymerization catalyst is a metallocene, and the melting or softening point of the polyolefin made using the catalyst is at least 20 °C lower than that of the prepolymerized polyolefin.--

3. Authorization for this examiner's amendment was given in a telephone interview with Arthur Crawford, Esq., on 9/23/04.

4. The following is an examiner's statement of reasons for allowance: none of the prior art of record fairly discloses or teaches a process for preparing polyolefins in which the difference in melting or softening point between the prepolymerized metallocene catalyst and the polymer made using it is at least 20 °C. Although some of the art cited discloses using different olefins for the polymerization and the prepolymerization, generally that art refers to Ziegler-

Art Unit: 1755

Natta catalysts, which are quite different in chemistry from metallocene catalysts, and although the problem to be solved by the present claims, namely reducing the fouling of polymerization reactors with prepolymerized catalyst particles, is old, the solution appears to be novel and unobvious over the prior art. The examiner's amendments merely address minor issues of form.

5. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Pasterczyk whose telephone number is 571-272-1375. The examiner can normally be reached on M-F from 9 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Bell, can be reached at 571-272-1362. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J. Pasterczyk

9/23/04



Mark L. Bell
Supervisory Patent Examiner
Technology Center 1700